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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,420	10/17/2005	Rinaldo Burgassi	144985.00000	3729

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POWELL GOLDSTEIN LLP  
ONE ATLANTIC CENTER FOURTEENTH FLOOR  
1201 WEST PEACHTREE STREET NW  
ATLANTA, GA 30309-3488

EXAMINER

UPTON, CHRISTOPHER

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/532,420

**Applicant(s)**

BURGASSI, RINALDO

**Examiner**

Christopher Upton

**Art Unit**

1797

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT publication WO 91/09193 in view of Drew and Midkiff.

The PCT publication discloses a skimmer having a net, water jets connected to opposite floating side arms for rotating the skimmer around a central body, and a water jet providing means for shifting and moving the body, substantially as claimed.

The claims differ from the PCT publication in recitation of an integral electrically powered means for alternating energy to the propelling means, for generating intermittent thrusts, specified to be a valve in claims 10 and 12; and, in claim 11, a feeler means for blocking the delivery of energy when the device meets an obstacle. It is known to use a valve to alternate flow to water jets in a jet propelled skimmer, as disclosed by Drew; and to provide an integral electric pump to provide water to a jet in a skimmer, with a sensing means to divert water from the jet when the skimmer meets an obstacle, as shown by Midkiff. It would therefore have been obvious for one skilled in the art to add such an alternating system to the jets of the PCT publication, to provide better control over the movement of the skimmer; and to provide an integral electrically operated pump, to make the device independent of the pool circulation system. (Note

that, while Drew discloses a three way valve, it is submitted that one skilled in the art would obviously use a valve having the number of paths corresponding to the number of flow paths, which in the case of the PCT publication is two).

3. Claims 8 and 9 are allowed.
4. Applicant's arguments with respect to claims 1-7 and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the PCT publication, Drew and Tuomey do not disclose an electric energy source onboard. It is submitted that an onboard electric energy source for a jet powered skimmer is known, as shown by Midkiff, and that it would have been obvious to substitute such an onboard energy source for the remotely powered hose of the PCT publication. Such an onboard energy source would not be compatible with the remotely operated switching system of Tuomey, but would be compatible with the onboard valve of Drew.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 8:30-6:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Upton/  
Primary Examiner, Art Unit 1797

Christopher Upton  
Primary Examiner  
Art Unit 1797